



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 20.12.2021

CORAM

THE HONOURABLE MR.JUSTICE C.V.KARTHIKEYAN

W.P. (MD) .No.19210 of 2021

and

W.M.P (MD) .No.15935 of 2021

S.Sankararaman

... Petitioner

Vs.

1.The District Collector,
Kanyakumari District,
Nagercoil.

2.The District Revenue Officer,
O/o.District Collector Office,
Nagercoil,
Kanyakumari District.

3.The Tahsildar,
Agastheeswaram Taluk,
District Collector Office,
Kanyakumari District.

4.Suseela

5.The Inspector of Police,
Kanyakumari Police Station,
Kanyakumari.

6.Senbagam @ Kasthuri

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the respondent No.2 to direct the respondent No.3 and 5 not to interfere in the civil dispute pertaining to the land in R.S.No.660/23 (Old Survey No.1/189) an extent of 9 cents situated at Kanyakumari Village, Agastheeswaram Taluk in favour of respondent No.6.

For Petitioner : Mr.S.Rajasekar

For R-1 to R-3 and R-5 : Mr.D.Ghandiraj,
Special Government Pleader.

For R-4 : No appearance

For R-6 : Mr.N.Dilip Kumar



ORDER

The Writ Petition is totally misconceived. It has been filed with respect to a First Appeal namely A.S.No.19 of 2013, which is now pending on the file of the District Court, Nagercoil. The First Appeal has been filed in a suit for partition which was O.S.No.228 of 2010 and in which, a preliminary decree was passed by the Principal Sub Court, Nagercoil on 22.11.2012. The parties are at lis for nearly more than 10 years.

2. The present Writ Petition has been filed in the nature of Mandamus seeking a direction to the second respondent / the District Revenue Officer, Nagercoil, Kanyakumari District to direct the third respondent / the Tahsildar, Agastheeswaram Taluk, District Collector Office, Kanyakumari District and the fifth respondent / the Inspector of Police, Kanyakumari Police Station, Kanyakumari, not to interfere with the said First Appeal.

3. Mr.D.Ghandiraj, learned Special Government Pleader, takes notice on behalf of respondents 1 to 3 and 5. Mr.N.Dilip Kumar, learned counsel, takes notice on behalf of the sixth respondent. There is no appearance on behalf of the fourth respondent.

4. I am confident that the learned District Judge, Nagercoil, before whom A.S.No.19 of 2013 is pending, would deliver a judgment in the said First Appeal on the basis of the evidence recorded by the Trial Court and presented before him and also on the basis of documents which had been filed proved admissible by the Trial Court. No other consideration should affect the learned District Judge while examining the points for consideration in A.S.No.19 of 2013.

5. Let the learned District Judge frame necessary points for consideration as per the provisions of Order 41 Rule 30 of C.P.C and then answer them in the course of deciding the said First Appeal. The other aspects which are not directly related to the issues either in the issues framed by the Trial Court or the points framed under Order 41 Rule 30 of C.P.C, should not weigh on the mind of the learned District Judge while deciding the said First Appeal. The issue of the District Revenue Officer or the Tahsildar or the Inspector of Police, trying to somehow or other interfere with the proceedings can never be countenanced by the Court. I am confident that such interference will not happen.

6. Accordingly, this Writ Petition is disposed of by placing a caveat on the learned District Judge, Nagercoil to dispose of the First Appeal in A.S.No.19 of 2013, within a period of thirty



(30) days from the date on which the final arguments conclude. There shall be no order as to costs. Consequently, connected miscellaneous petition stands closed.

Sd/-

Assistant Registrar (CS II)

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/ /2022

Sub Assistant Registrar(CS)

Lm

Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

- 1.The District Judge,
Nagercoil.
- 2.The District Collector,
Kanyakumari District,
Nagercoil.
- 3.The District Revenue Officer,
O/o.District Collector Office,
Nagercoil,
Kanyakumari District.
- 4.The Tahsildar,
Agastheeswaram Taluk,
District Collector Office,
Kanyakumari District.
- 5.The Inspector of Police,
Kanyakumari Police Station,
Kanyakumari.

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MGJ(07.01.2022) 3P 6C